ROUND-UPS.

Rational Methods of Feeding Applied to Texas Cattlemen.

Work of the New Butchers' and Cattle Growers' Organization—An Interesting Case Settled—He Would Not Sell.

The Day Cattle Company of Runnels county, shipped fifteen carloads of fat beeves to Chicago last week.

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The country around Coleman is not behind other parts of the state in the feeding of cattle. R. H. Overall, near Coleman, is feeding 1600 head of cattle on his ranch this winter, and W. P. Stamphill will also feed a lot of corn into a bunch of beeves.

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Jose Rodrigues, who is in the employ of the Oak Grove Cattle Company of New Mexico, "treed" a mountain lion last week, and although he was not armed, he did not propose to leave the fierce monster without a fight. He tied his pocket knife on to a pole with his hat band, and stabbed the animal to death. It measured over six feet from end of tail to nose. It was surely a brave deed, bordering on recklessness. Many a man would not have attacked such an animal with a Winchester.

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A Fort Worth gentleman said that the new national organization of cattle growers and butchers was not letting the grass grow under its feet by any means. The work of rolling up the membership is being assiduously pushed by the officers, and there is now in course of preparation at the headquarters in Dallas a circular calling for funds to defray the necessary expenses of such legislation as the organization was formed to secure. A measure for state inspection of cattle on hoof before slaughter, is to be introduced in all the state and territorial legislatures that meet this winter.

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A case that has excited great interest among the stockmen, involving as it does a large amount of money and being based upon a system of transactions in live stock once in vogue all over the range country, but now almost unknown, has recently been decided in Cheyenne. Dr. B. Dole sued Charles Hecht for $42,000, and lost the case. The parties to the suit were both cattlemen. Hecht sold Dole a herd of cattle in 1883, the book account of which showed 2400 head. When Dole came to count his cattle he could find but 1200, and brought suit for the difference. The defense claimed that no misrepresentation had been made and that the book account method of selling cattle was universally in use at the time of the transaction.

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It is now more than two years since the once famous Cole's circus made its last appearance in Fort Worth. From here it went to New Orleans, where the whole concern was disbanded and sold out, part of the outfit going here and the other part there. Mr. Cole had three dun ring horses that he had owned for years, and that were sold with the others without Mr. Cole's knowledge. He at once bought them back, saying that he would never consent to have the horses become the property of anyone who would make them work, and he had decided to put them to a painless death. He proposed bleeding them to death, but Will B. Leonard, a liveryman, suggested that the use of chloroform would be a better and less painful mode. This was finally decided upon, and a reliable man procured, who was to have performed the operation.

They were all collected in the circus tent. There was Cole, Leonard, the riders and the clowns, the ringmaster, the tumblers and the leapers, and the three pet duns. Calling the little mare by name, he told her to kiss them all goodbye. The intelligent animal, stretching forward her head, kissed each one. This was more than they could stand, and the sacrifice was put off. Cole had no place to take them to, so Mr. Leonard promised to find some one who would assume charge of them, under a guarantee never to work them, but to keep them in good order until death should claim them for the grave.

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Those who are putting up cattle in this part of Texas this winter for the spring markets are giving a great deal of attention to economy in feeding, being inclined to think that perhaps farmers in the north who handle a comparatively small number of steers are able to devote greater pains to their few than can the Texas people who carry through so many. There are points of view from which the question can be looked at by which it can be seen that the advantage if any is on the side of him who has the small bunch.

Those who feed cattle in a small way are apt to commit errors which larger feeders do not fall into from mere force of circumstances. With a large number of animals to handle it is practically impossible to enter into all the nice details of care for individuals and special preparation of food which by many are supposed to especially conduce to the economical, rapid production of grain, and in consequence to largely increase the profits of the feeder. Take housing of cattle, for instance. The owner of a small bunch of cattle feels obliged to tie each animal by itself in order to get the best gain and be able to control the food supply. But is tying up fattening cattle really economy after all? The operation adds immensely to the labor bill, for the manure must be laboriously removed several times a day and a large amount of bedding supplied if the animals are to be kept from becoming most unsightly from the accumulation of filth.

Quiet is a factor of great importance in fattening, and tying an animal certainly restrains movement, but is it not entirely too enforced in its character? One has but to recall the excruciating fatigue he experiences from standing any length of time on one spot, as in a crowd, for instance, to realize the great difference between that operation and moving about even in a somewhat restricted manner. In the average cattle shed of the west the temperature is but slightly higher than that without. In view of this fact could not the animals fight cold far better if left each to choose where to pass the night, and the position and direction of the body when resting? After going over the ground thoughtfully one is forced to ask, why not turn the fattening cattle into a small yard enclosed by buildings or fences, or a combination of both, which shall break the cold winds, and at one side of this yard have a shed under which the cattle may go at will to get out of the snow or rain, so located that they can lie down in positions best suited to comfort and rumination and have room enough in day time to relieve the weariness of limbs and be in the sunshine on bright days? Whether this idea is right or not it is a fact that many of the large feeders, men of careful, close observation, would not tie up their cattle if the work therefor cost them nothing.

The second point on which the small feeder exerts himself in the supposed direction of economy is by grinding and even steaming the grain fed to stock. His old country ancestors performed one or both of these operations with the great difference, however, that the grain ground was what we call "small grain"—barley, oats or rye—and that these were high in price while labor was very low relatively. Then "down East," where our small feeders moved from, they always feed meal to worn out worksteers, and such cattle did remarkably well, according to all tradition, on this diet. The miller, while tolling his grist liberally, descants glowingly upon the great advantages of reducing all grain to meal. If our farmer friend grows weary of paying tribute to the miller he usually falls prey to the agent of the iron grinder mill and becomes his own miller, but not for long, for grinding soon proves an irksome job, and often before the paint is worn off the mill becomes a silent monument to the inordinate love of the average American for labor-saving machinery and the siren-like seductiveness of the average agricultural machine agent. Any one who knows anything about a steer knows that he prefers whole corn to corn meal and ear corn to either. It costs an eighth of the corn to grind it and another eighth to take it to and from the mill. Why not feed ear corn at once to the cattle, even if a fourth of it does nothing but find its way into the manure heap? But no such loss, need be incurred. With hogs to follow, ear corn can be fed with actual economy besides the saving in labor, and experiments carefully conducted show this. Probably meal will finish up a steer better than ear corn, but for the bulk of the feeding there are no trials to which we can point that show in favor of meal over whole corn. A step still further in the right direction is to feed unhusked corn-fodder and all to the cattle.

Such innovations will appall many farmers; they have become so used to doing these things in the most painfully tedious way that they would actually be miserable with the unoccupied time left on their hands by such short-cut methods. The traditions handed down from the fathers are all against it, and they will be slow to yield. But yield they will, though slowly. What we are drifting toward is not more complicated methods of feeding, but big crops to feed, better stock to feed it to, and simple, rational methods of getting feed to the animal.

Shipped from Holland.

Special to the Gazette.

HOLLAND, TEX., Dec. 21.—J. B. Rawlet of this place shipped a car of fat corn-fed beeves to St. Louis yesterday.

Central Texas Live Stock Exchange.

Special to the Gazette.

WACO, TEX., Dec. 21.—The Central Texas Live Stock Association this afternoon formally opened its live stock exchange at No. 106 North Fifth street. A meeting of the executive committee was held, Vice-President Heconger presiding, and rules for carrying on the business of the exchange were adopted. The secretary was ordered to subscribe for the Fort Worth GAZETTE, the Dallas News and the Day, to be filed for reference in the reading room. The exchange was then christened with Mum's extra (wet.)

How She Got a Seat.

Chicago Tribune.

She was a little cross eyed woman, and she had stood up in a street car and clung to a strap until she was tired. Suddenly she spoke:

"Thank you, sir. Since you kindly offer me a seat I will take it."

Six men looked up. Each one of the six thought she was staring at himself, and she took her choice of the six seats instantly placed at her disposal. Wonderful is the power of the human eye when it happens to be a little askew.

T. P. A. The members are earnestly requested to attend the meeting at the Pickwick to-night at 8 o'clock sharp.

Holiday Bargains.

The Pharmacy Co. are closing out their stock of druggist holiday goods at cost.

Music boxes in all styles and prices at Hall & Heckle's, 300 Houston street. Everybody is invited to call and examine their stock.

Ladies' gold watches, $15 to $175, at W. C. Pfaeffle's, 605 Main street.

"Ah!" exclaimed the matter-of-fact man joyfully, as he saw the heading in the newspaper, "Trials of Authors," "so they've arrested some of those confounded poets at last, have they? Wouldn't I like to be on the jury!"

Opera glasses, $3.50 to $50. W. C. PFAEFFLE, 605 Main street, Fort Worth, Tex.

COURT OF APPEALS.

Synopses of Decisions Rendered at the Present Tyler Sitting—Important North Texas Cases Passed Upon.

Correspondence of the Gazette.

TYLER, TEX., Dec. 20.—Bud Robinson vs. the State; appeal from Bosque. Conviction for burglary. There is no material error in the charge, and the indictment is sufficient. The evidence fully supports the conviction, and there was no reversible error in the court below. Affirmed. Willson, J.

Felix Burtcher vs. the State; appeal from Hays. On motion for rehearing. The motion having been duly considered, nothing therein has shown to the court a sufficient reason why this court should change its opinion of a former day affirming same, the motion will be refused. Motion overruled. Willson, J.

H. Henslee vs. Edward Eastburn; appeal from Grayson. On motion for rehearing. No reason being shown in the motion why the court should change its opinion of a former day, the motion will be overruled. Motion refused. Willson, J.

J. C. Denson vs. W. J. Williamson; appeal from Gonzales. On motion for rehearing. The grounds set forth in the motion having been duly considered by the court, it is adjudged that the same be refused. Motion overruled. Willson, J.

Thomas H. Miller et al. vs. Peck & Fly; appeal from Gonzales. On motion for rehearing. There is nothing in the motion to warrant the court in setting aside the judgment hitherto rendered in this cause. Motion refused. Willson, J.

Thomas P. Kinnear vs. T. N. Jones et al.; appeal from Smith. There is no error in any of the rulings of the court below or in the judgment. None of the assignments of error are well taken. No reversible error. Affirmed. Hurt, J.

B. R. Cobb vs. T. J. Powell; appeal from Clay. On motion for rehearing. The grounds set forth in the motion having been duly considered, it is adjudged that same are untenable and will be refused. Motion overruled. Willson, J.

A. J. Ballard vs. Fenton Bird et al.; appeal from Kaufman. Motion to affirm on certificate. In this case the motion to affirm failing to show that the court below had jurisdiction of the cause, this fact renders it defective and will necessitate a dismissal of same. Certificate dismissed. Willson, J.

J. M. Mullins vs. Matador Land and Cattle Company, limited; appeal from Tarrant. In this case the evidence fails to support plaintiff's cause and the judgment of the court below in favor of defendants was correct. No error. Affirmed. Hurt, J.

Joseph Crowley vs. the State; appeal from Jack. In this case the evidence upon which the conviction is based is wholly circumstantial as to the taking of the alleged stolen animal by the defendant. He claimed the animal as his property and admitted that he had placed his brand upon it, but claimed also that he had bought it. He never admitted that he took it from the range or from the possession of the owner, and there is no evidence not circumstantial which connects him with the original taking of the animal. Such being the character of the evidence the trial court committed a material error in failing to charge the jury with respect to circumstantial evidence, and for this error alone the judgment will be reversed and remanded. Willson, J.

St. Louis, Iron Mountain and Southern Railway vs. Yerger; appeal from Bowie. On motion to affirm on certificate. The certificate failing to show the court below had jurisdiction of the cause, this fact renders same defective and the certificate will be dismissed. Willson, J.

Ex Parte Jim Jones; appeal from McLennan. This is an appeal from a proceeding of habeas corpus in the court below, wherein appellant was refused bail. After a careful consideration of the facts in this case the court is of opinion that relator is entitled to bail and the sheriff of McLennan county will release him from custody on the execution of a legal bond with good and sufficient sureties in the sum of $2500. White, P. J.

Joe Smith vs. the State; appeal from Lamar. Conviction for "disposing of and trading off" mortgaged property. 1. The indictment is fatally defective because it does not allege the name of the person to whom the property was disposed of, or traded, nor that such person was unknown to the grand jurors. [24 C. A., 494.] Reversed and dismissed. Willson, J.

Vieno et al. vs. Household Sewing Machine Company; appeal from Smith. On motion for rehearing. The motion having been carefully considered, nothing contained therein is deemed sufficient to warrant the court in disturbing its judgment of a former date affirming this case, and same is therefore overruled. Willson, J.

Issy Landa vs. the State; appeal from Collin. Conviction for sending a written letter threatening to accuse one W. H. Webb of a criminal offense. Held: 1. The indictment is defective in not alleging that the defendant delivered the letter with a view to extorting money—same only alleging that he sent it with that view. 2. The letter was posted in San Antonio, Bexar county, and that county alone has jurisdiction of this case. Reversed and dismissed. Willson, J.

NOTE.—Hurt, J., dissents, being of opinion that the offense of sending the letter may be prosecuted in either Bexar or Collin county.

F. H. Greer et al. vs. J. S. Daugherty; appeal from Kaufman. Suit by appellee to recover for rents, advances, etc., with distress warrant. 1. The court erred in refusing to quash the distress warrant proceedings, it being shown that suit was instituted December 15, 1887, and citation was not issued to defendants until January 12, 1888. The citation should have been issued simultaneous with the distress warrant. [R. S. Art. 3119, 2 App. Sec. 358.] 2. It was error to render judgment against appellants as sureties upon what purported to be a replevin bond. It is not an unconditional obligation to pay the judgment, as is the bond required by statute. The bond is dependent for whatever validity it may have upon the validity of the distress warrant proceedings, and as that proceeding can not be sustained, said bond must fall with it. The judgment is reversed, and as to appellants the suit is dismissed. Willson, J.

St. Louis, Arkansas and Texas Railway vs. W. T. McKinney; appeal from Hopkins. Suit by appellee for damages to wheat and his fence. Appellant, on the trial, proposed to prove facts tending to show that the matters in dispute between the parties was res adjudicata. Appellee objected on the ground that these facts could be proved only by the record in the former suit. The objection was sustained. Held: Appellant had the right to prove the facts set forth in the bill of exceptions, reserved to the ruling of the court, by parol; and the court erred in sustaining the objections. Reversed and remanded. Hurt, J.

Ex-Parte Joel Holmes; appeal from Cooke. On motion for rehearing. On a former day of the term this case was dismissed because same had no seal across the tie thereof. In dismissing the appeal an agreement of counsel waiving informalities in the transcript, was overlooked. The appeal will therefore be reinstated. Gainesville is incorporated under the general incorporation statute of this state, providing for the incorporation of cities, towns and villages. Said city enacted an ordinance as follows: "If any person shall sell or give away any intoxicating liquors of any kind whatever, in any house, room, or other place used and occupied as a theater, show, or place where theatrical or dramatic representations are given, by whatever name called, or any room or other place used, run, or operated in connection with said house, room, or other place used and occupied as a theater, show, or place where theatrical or dramatic representations are given, he shall for each and every such offense be punished by fine in any amount, not less than $25 nor more than $100."

Under this ordinance appellant was duly charged with having sold intoxicating liquor in a room used in connection with a place used as a theater, to-wit: in a bar-room used in connection with the Gem theater. He was duly convicted, and placed in the hands of the city marshal until the fine should be paid. He sued out a writ of habeas corpus and was remanded to the custody of the marshal. Held: There is only one question in this case, and that is as to the validity of the ordinance under which appellant was convicted. The ordinance in question was no doubt enacted under authority of Art. 392, R. S., which reads: "The city council shall have full power by ordinance to prevent the sale or giving away of any intoxicating liquors in any house or other place where theatrical or dramatic representations are given, and also to prevent intoxicating liquors of any description from being brought into any house or place where such representations are given under any pretext whatever." This is the only provision of the statute which constitutes the charter of said city, which bears upon this particular subject, and which grants the power to prohibit the sale or gift of intoxicating liquors with respect to theatrical or dramatic representations. It will be perceived at a glance that said article does not confer the power upon the city council to prohibit the sale or gift of intoxicating liquors, except in the house or other place where theatrical or other dramatic representations are given. The ordinance, however, extends the prohibition to any room or other place used, run or operated in connection with such house or place, and to this extent said ordinance is unauthorized by the charter of said city. Its ordinances to be valid must conform to the laws of the state and to its charter, unless special legislative enactment extends its powers beyond these. [19 App. 584, 20 App. 210, 9 App. 281.] The arrest and confinement of appellant is without authority of law and illegal, and it is therefore ordered that he be discharged from custody and that the city of Gainesville pay the cost of this appeal. Willson, J.

Albert Bookser vs. the State; appeal from Tarrant. Conviction for theft of a cow. Appellant, one Switzer, and one one Voight were accused of the theft of a cow. When the arresting party approached a certain house for the purpose of arresting the parties, some one on the inside was heard to remark: "Arrest Albert Booker; he is the guilty one if anything is wrong." As the officers approached some one was observed leaving the house, but it was not shown with any degree of certainty that appellant was present when the remark was made. The officers entered the house and arrested Switzer and Voight. Held: If appellant was not present when the above quoted remarks was made, he was not bound by them. The accused must be present, or at least it must reasonably appear that he heard the statement of others before they can be made evidence against him. This must be shown affirmatively by the state, though it may be done circumstantially. 2. The charge of the court relating to circumstantial evidence was not full. For correct rule see Will. Cr. Forms 714. Reversed and remanded. Hurt, J.

John Johnson vs. the State; appeal from Taylor. The court gave the following charge which is assigned as error: "If you should find from the evidence that prior to the shooting the deceased forcible and without defendant's consent, seized money that was defendant's property, or that defendant fairly and reasonably believed was his property, and that deceased refused to give up such money, and that when defendant returned to where deceased was, he returned not for the purpose of provoking a difficulty and inflicting injury upon the deceased but on the contrary, only for the purpose of making a demand quietly and peaceably, and unaccompanied by force of the said Gilstrap that money should be returned, and if with such purpose and intent, defendant did return to the room and quietly demand the return of such money, not intending nor contemplating at the time that such demand would result in a difficulty in which death or serious bodily injury would result—then and in such case if defendant shot and killed W. T. Gilstrap, it would be either murder in the second degree, or manslaughter, or justifiable homicide, according as you should find the other facts of the case under former instructions of the court." Held: The evidence adduced called for a charge upon the hypothetical case stated, but the facts stated if found to be true, would have made a clear case of justifiable homicide, and it was error in the court to tell the jury that upon such a state of facts, the offense committed would be either murder in the second degree, manslaughter, or justifiable homicide. A correct instruction was asked by appellant and refused by the court. The court also erred in refusing a charge to the effect that if appellant entered the room with the intention of renewing or provoking a difficulty, but abandoned this idea after entering the room, then he would not forfeit his right of self-defense. Reversed and remanded. White, P. J.

George C Clare vs. the State; appeal from Hopkins. Conviction for murder in the second degree. 1. There being no evidence to show adequate cause for the homicide, the court did not err in refusing to charge upon manslaughter. 2. We think it clear that the legislative intention was, first, that mere intoxication from the recent use of ardent spirits should not of itself, in any case excuse crime; second, that mere intoxication should not mitigate the degree or penalty of crime; third, temporary insanity produced by such use of ardent spirits is evidence which may be used in all cases in the mitigation of the penalty, and also in murder, for the further purpose of determining the degree. Of itself, intoxication is neither a justification, mitigation, nor excuse of any sort of crime. It must go to the extent of producing temporary insanity before it will be allowed to mitigate the penalty, and in murder before it can be considered in determining the degree. There is no reversible error. Affirmed. White, P. J.

Tomas Arispe vs. the State; appeal from Webb. Conviction for theft of a horse. The court, after charging a correct rule (as far as it went) upon explanation made by a defendant found in possession of recently stolen property, charged as follows: "If, however, when his possession was first challenged he failed to reasonably and satisfactorily account for his possession thereof, you will find him guilty as charged in the indictment." Held: Error. The accused may fail to explain his possession, but certainly he would have the right to prove it innocent, though he made no explanation when first called on for one, or whether he ever attempted to make one. Besides, this charge was upon the weight of evidence. Reversed and remanded. Hurt, J.

City of Tyler vs. A. P. Moore; appeal from Smith. Suit by appellee for damages caused by the death of his horse, it being alleged that said death was caused by a defect in the streets of the city. It is shown that the alleged defect consisted of a hole in the street filled with mud and water, and was about three feet square. Parties passing along could not tell of the defect. The only way in which this could be found out was by inserting something in the hole. It appears that the street inspector walked along the street where the alleged defect was almost daily. No actual notice to the city was shown. Held: The evidence does not support the verdict. The defect was almost latent, and could scarcely be observed unless by actual examination. It is not shown that the city authorities knew it was there, nor that same had existed a sufficient length of time for the city to be presumed to have notice of same. Reversed and remanded. Hurt, J.

John Laws vs. the State; appeal from Franklin. Conviction for murder in the second degree. The defense in the case was that the homicide occurred in the night time, and was committed for the purpose of preventing the consequences of the theft. As to the time of the homicide the evidence was conflicting, some of the witnesses saying about sun set, others about thirty minutes or more after sunset. Held: The court committed a material error in not charging as to the legal meaning of "day time," and "night time." In this state with reference to the crime of burglary it is provided, "By the term 'daytime' is meant any time of the twenty-four hours, from thirty minutes before sunrise until thirty minutes after sunset." "Words which have their meaning specially defined shall be understood in that sense, though it be contrary to their usual meaning." [P. C. Art. 10.] It is clear that in view of the provisions cited above that a "theft by night" is a theft committed any time between thirty minutes after sunset and thirty minutes before sunrise, and the court should have so instructed the jury. Reversed and remanded. Willson, J.